

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 11/27/2018 8:13:47 PM
To: McGartland, Al [McGartland.Al@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]
Subject: RE: my comment on the NCEE section of the IG report

Yes, I will fold this into one set of consolidated comments. Thanks.

From: McGartland, Al
Sent: Tuesday, November 27, 2018 3:02 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>
Subject: my comment on the NCEE section of the IG report

Ex. 5 Deliberative Process (DP)

Message

From: Lovell, Will (William) [lovell.william@epa.gov]
Sent: 5/10/2018 2:18:56 PM
To: Bolen, Brittany [bolen.brittany@epa.gov]
Subject: RE: EO 13771 overview
Attachments: EO 13771.docx

Please see attached.

From: Lovell, Will (William)
Sent: Wednesday, May 9, 2018 8:24 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Re: EO 13771 overview

Will do!

Sent from my iPhone

On May 9, 2018, at 8:22 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:

Hey, can you please work on refining this into a one-pager for Andrew in advance of his meeting with Neomi on Friday?

From: Nickerson, William
Sent: Wednesday, May 9, 2018 5:30 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: EO 13771 overview

Brittany,

Drafted as potential background for Andrew Wheeler's meet and greet on Friday.

Summary of EO 13771: Reducing Regulation and Controlling Regulatory Costs

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 2/7/2018 7:39:04 PM
To: Bolen, Brittany [bolen.brittany@epa.gov]
Subject: RE: By 2 PM Today: FY18 Reg Budget

correct

From: Bolen, Brittany
Sent: Wednesday, February 07, 2018 2:11 PM
To: Nickerson, William <Nickerson.William@epa.gov>
Subject: RE: By 2 PM Today: FY18 Reg Budget

Okay. Thanks.

Ex. 5 Deliberative Process (DP)

From: Nickerson, William
Sent: Wednesday, February 7, 2018 1:55 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: By 2 PM Today: FY18 Reg Budget

Ex. 5 Deliberative Process (DP)

From: Nickerson, William
Sent: Wednesday, February 07, 2018 1:09 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>
Subject: RE: By 2 PM Today: FY18 Reg Budget

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Those 10 are shown below. These numbers are constantly in flux.

I'm going to the OCIR meeting and should be back around 2pm.

Planned
Signature

Date

Signer

SAN

Working Title

AAship

Tier
Level

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Bolen, Brittany
Sent: Wednesday, February 07, 2018 11:51 AM
To: Nickerson, William <Nickerson.William@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>
Subject: RE: By 2 PM Today: FY18 Reg Budget

Hi – thank you, Bill. Can you also provide us the list of deregulatory actions we intend to finalize in FY18?

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Please provide me that list as soon as practicable – that is, before 230. Thanks.

From: Nickerson, William
Sent: Wednesday, February 7, 2018 11:47 AM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>
Subject: RE: By 2 PM Today: FY18 Reg Budget

Our FY18 reg budget was finalized this past November, based on estimates that were available at that time as shown in the table below. This is the table we sent to OMB at the time.

Ex. 5 Deliberative Process (DP)

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	Action Title	EO 13771 Designation	Annualized Cost (Savings) using an Indefinite Time Frame (2016\$ at 7%)
1	Definition of "Waters of the United States" – Recodification of Preexisting Rule RIN 2040-AF74	Deregulatory	Ex. 5 Deliberative Process (DP)
2	Hazardous Waste Management System; User Fees for the Electronic Hazardous Waste Manifest System and Amendments to Manifest Regulations RIN 2050-AG80	Deregulatory	
3	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements RIN 2060-AT59	Deregulatory	
4	Relaxation of the RVP Gasoline Standard for Areas in Louisiana RIN 2060-AT61	Deregulatory	
5	Relaxation of the Federal Reid Vapor Pressure (RVP) Gasoline Volatility Standard for Shelby County Memphis), Tennessee RIN 2060-AT69	Deregulatory	
6	Remaining Requirements for Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements	Deregulatory	

	RIN 2060-AT42		Ex. 5 Deliberative Process (DP)
7	CERCLA/EPCRA Reporting Guidance RIN 2050-AG66	Deregulatory	
8	Non-Hazardous Secondary Materials - Additions to List of Categorical Non-Waste Fuels; Other Treated Railroad Ties RIN 2050-AG83	Deregulatory	
9	Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents RIN 2050-AG90	Deregulatory	
10	Public Notice Requirements for Combined Sewer Overflow Discharges to the Great Lakes RIN 2040-AF67	Regulatory	
11	Mercury; Reporting Requirements for the TSCA Mercury Inventory RIN 2070-AK22	Regulatory	
12	CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms RIN 2050-AG66	Regulatory	
13	Service Fees for the Administration of the Toxic Substances Control Act RIN 2070-AK27	Regulatory	
	Net Costs		

From: Lovell, Will (William)

Sent: Wednesday, February 07, 2018 9:52 AM

To: Nickerson, William <Nickerson.William@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>; Corrales, Mark <Corrales.Mark@epa.gov>; Curry, Bridgid <Curry.Bridgid@epa.gov>; Muellerleile, Caryn <Muellerleile.Caryn@epa.gov>; Adams, Darryl <Adams.Darryl@epa.gov>

Subject: By 2 PM Today: FY18 Reg Budget

Good morning, all!

This is a time-sensitive request for a meeting this afternoon with OIRA, so I'm sending this to a few folks in case anyone is held up by the OPM delay. Could y'all please provide a list of the rules that we used to justify our FY18 regulatory budget and how much each rule contributed? I understand a large portion of it was based on finalization of WOTUS Step 1.

As a secondary priority, please note if we have any items that could be added to the list.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thank you,

Will Lovell

Policy Advisor, Office of Policy

U.S. Environmental Protection Agency

(202) 564-5713

Lovell.William@epa.gov

Message

From: Nickerson, William [Nickerson.William@epa.gov]
Sent: 1/31/2018 3:46:51 PM
To: Bolen, Brittany [bolen.brittany@epa.gov]
CC: Lovell, Will (William) [lovell.william@epa.gov]
Subject: RE: Cost savings

Ex. 5 Deliberative Process (DP)

-----Original Message-----

From: Bolen, Brittany
Sent: Wednesday, January 31, 2018 10:19 AM
To: Nickerson, William <Nickerson.William@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>
Subject: Re: Cost savings

Ex. 5 Deliberative Process (DP)

Sent from my iPhone

> On Jan 31, 2018, at 10:18 AM, Nickerson, William <Nickerson.William@epa.gov> wrote:
>
> I don't have it at hand, no. We are working on it. There may also be other reg or dereg actions that
have been finalized since October 1, so we are tracking those down as well. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

>
>
> -----Original Message-----
> **From:** Bolen, Brittany
> **Sent:** Wednesday, January 31, 2018 10:15 AM
> **To:** Lovell, Will (William) <lovell.william@epa.gov>
> **Cc:** Nickerson, William <Nickerson.William@epa.gov>
> **Subject:** Re: Cost savings
>

Ex. 5 Deliberative Process (DP)

> Thanks,
> Brittany
>
>
>> On Jan 31, 2018, at 8:46 AM, Lovell, Will (William) <lovell.william@epa.gov> wrote:
>>
>> Bill, do you have these calculations available in terms of net present value?
>>
>> -----Original Message-----
>> **From:** Nickerson, William
>> **Sent:** Wednesday, January 31, 2018 8:42 AM
>> **To:** Bolen, Brittany <bolen.brittany@epa.gov>
>> **Cc:** Lovell, Will (William) <lovell.william@epa.gov>
>> **Subject:** RE: Cost savings
>>

Ex. 5 Deliberative Process (DP)

>>
>>

>> -----Original Message-----

>> From: Bolen, Brittany

>> Sent: Tuesday, January 30, 2018 8:14 PM

>> To: Nickerson, William <Nickerson.William@epa.gov>

>> Cc: Lovell, Will (William) <lovell.william@epa.gov>

>> Subject: Cost savings

>>

>> Hi Bill - with the off-site waste rule signed last week, plus the e-manifest rule late December, can you please provide us updated cost savings figures?

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

request for tomorrow morning.

This is a somewhat time sensitive

>> Thank you,

>> Brittany

>>

>> Sent from my iPhone

Message

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]
Sent: 5/16/2017 6:34:40 PM
To: Samantha Dravis (dravis.samantha@epa.gov) [dravis.samantha@epa.gov]
Subject: still reviewing
Attachments: Copy of 2017 05 16 EPA Comments on DOC Draft Report-BB.xlsx

Ex. 5 Deliberative Process (DP)

Brittany Bolen

Deputy Associate Administrator, Office of Policy
U.S. Environmental Protection Agency
(202) 564-3291
Bolen.Brittany@epa.gov

Message

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]
Sent: 4/16/2019 1:40:40 PM
To: Lindsey Jones (jones.lindsey@epa.gov) [jones.lindsey@epa.gov]; McGartland, Al [McGartland.Al@epa.gov]
Subject: FW: Draft Cost-Benefit Memo
Attachments: DRAFT Cost Benefit Memo 04.11.19 (002) cw.docx

FYI – let's discuss later today.

From: Woods, Clint
Sent: Tuesday, April 16, 2019 9:04 AM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Wehrum, Bill <Wehrum.Bill@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Harlow, David <harlow.david@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>
Subject: RE: Draft Cost-Benefit Memo

Brittany,

Attached are some comments from my end – Happy to discuss further. Thanks!

From: Bolen, Brittany
Sent: Thursday, April 11, 2019 11:21 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Woods, Clint <woods.clint@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Ross, David P <ross.davidp@epa.gov>; McDonough, Owen <mcdonough.owen@epa.gov>
Cc: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Jones, Lindsey <jones.lindsey@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: Draft Cost-Benefit Memo

Colleagues,

Thanks again for taking time to meet with me, along with the OP/OGC team, on the Administrator's cost-benefit reform effort. As discussed at last week's AA meeting, the Administrator is interested in sending a memorandum that lays out next steps. Please let me know if you have any feedback on the draft memorandum attached by **COB Wednesday** (April 17).

Best,
Brittany

Message

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]
Sent: 6/12/2019 12:07:58 AM
To: Nickerson, William [Nickerson.William@epa.gov]
CC: Lovell, Will (William) [lovell.william@epa.gov]; Helena Wooden-Aguilar (Wooden-Aguilar.Helena@epa.gov) [Wooden-Aguilar.Helena@epa.gov]
Subject: RE: new draft of OIG response
Attachments: OIG response-BB.docx

Bill,

Thanks for your work on this, and for responding quickly with the changes we discussed this morning. Attached are my edits and comments. Happy to schedule a call tomorrow to discuss.

Ex. 5 Deliberative Process (DP)

Let me know if you have any questions. Will can keep you posted on the Henry meeting as I would like for you to have the opportunity to participate. If it is tomorrow, acknowledging your telework schedule, we'll get a call-in number.

Thanks again,
Brittany

From: Nickerson, William
Sent: Tuesday, June 11, 2019 1:27 PM
To: Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>
Subject: new draft of OIG response

Revised version attached.

I'm still conferring with OGC and Smart Sectors, so there is placeholder language for those two additions. But I wanted to get you the latest electronic copy for review and for transmittal to Henry.

Message

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]
Sent: 5/17/2019 9:31:08 PM
To: Helena Wooden-Aguilar (Wooden-Aguilar.Helena@epa.gov) [Wooden-Aguilar.Helena@epa.gov]
Subject: FW: Draft OIG report, "EPA Exceeded the Deregulatory Goals of Executive Order 13771," (Project No. OPE-FY18-0177) for Agency comment.
Attachments: OIG Draft Report EPA Exceeded the Deregulatory Goals of Executive Order 13771.pdf

From: Harris, Jeffrey

Sent: Friday, May 17, 2019 3:13 PM

To: Darwin, Henry <darwin.henry@epa.gov>

Cc: Greaves, Holly <greaves.holly@epa.gov>; Bloom, David <Bloom.David@epa.gov>; Osborne, Howard <Osborne.Howard@epa.gov>; Shaw, Nena <Shaw.Nena@epa.gov>; Ross, David <Ross.David@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Benton, Michael <benton.michael@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; Shields, Edward <Shields.Ed@epa.gov>; Hanger, Eric <Hanger.Eric@epa.gov>; Ulmer, Craig <Ulmer.Craig@epa.gov>; Kaplan, Jennifer <Kaplan.Jennifer@epa.gov>; Nussbaumer, James <nussbaumer.james@epa.gov>; Lagda, Jeffrey <Lagda.Jeffrey@epa.gov>; Christensen, Kevin <Christensen.Kevin@epa.gov>; El-Zoghbi, Christine <El-Zoghbi.Christine@epa.gov>; Eyermann, Richard <Eyermann.Richard@epa.gov>; Butler, Kathlene <Butler.Kathlene@epa.gov>; Joseph, Laretta <Joseph.Laretta@epa.gov>; Brooks, Jaya <brooks.jaya@epa.gov>; Maxwell, Ryan <Maxwell.Ryan@epa.gov>; Sternberg, Gary <Sternberg.Gary@epa.gov>; Trent, Bobbie <Trent.Bobbie@epa.gov>; Klingler, Rebecca <klingler.rebecca@epa.gov>

Subject: Draft OIG report, "EPA Exceeded the Deregulatory Goals of Executive Order 13771," (Project No. OPE-FY18-0177) for Agency comment.

Attached is the draft OIG report, "EPA Exceeded the Deregulatory Goals of Executive Order 13771" (Project No. OPE-FY18-0177) for Agency comment.

The report examines EPA's management controls for implementing Executive Order (EO) 13771, *Reducing Regulation and Controlling Regulatory Costs*.

This draft report is subject to revision by the OIG and, therefore, does not represent the final position of the OIG. This draft report should not be distributed or disclosed to others except that you may distribute it to other persons in your organization to obtain their review and comments on the subjects reported.

As noted in the report's transmittal memorandum, the Agency's response is due within 30 days of the draft report date (June 17, 2019). The response should indicate planned completion dates for the report recommendations. If you do not concur with a proposed recommendation, please provide any alternative actions you wish to be considered for the final report. Your response should also identify any corrective actions already initiated or planned.

If you or your staff have any questions, please contact me at (202) 566-0831, or Laretta Joseph, Project Manager, at (212) 637-3049.

Thank you for the cooperation and assistance we received from the Office of Policy and staff in multiple program offices throughout this assignment.

Jeff Harris

Jeffrey K. Harris, PhD
Director, Toxics, Chemical Management and Pollution Prevention Evaluations
Office of Audit and Evaluation
Office of Inspector General

Message

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]
Sent: 5/17/2019 7:13:29 PM
To: Darwin, Henry [darwin.henry@epa.gov]
Subject: FW: Draft OIG report, "EPA Exceeded the Deregulatory Goals of Executive Order 13771," (Project No. OPE-FY18-0177) for Agency comment.
Attachments: OIG Draft Report EPA Exceeded the Deregulatory Goals of Executive Order 13771.pdf

Hey now, we were just talking about this report this morning.

From: Harris, Jeffrey
Sent: Friday, May 17, 2019 3:13 PM
To: Darwin, Henry <darwin.henry@epa.gov>
Cc: Greaves, Holly <greaves.holly@epa.gov>; Bloom, David <Bloom.David@epa.gov>; Osborne, Howard <Osborne.Howard@epa.gov>; Shaw, Nena <Shaw.Nena@epa.gov>; Ross, David <Ross.David@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>; McGartland, Al <McGartland.Al@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Benton, Michael <benton.michael@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; Shields, Edward <Shields.Ed@epa.gov>; Hanger, Eric <Hanger.Eric@epa.gov>; Ulmer, Craig <Ulmer.Craig@epa.gov>; Kaplan, Jennifer <Kaplan.Jennifer@epa.gov>; Nussbaumer, James <nussbaumer.james@epa.gov>; Lagda, Jeffrey <Lagda.Jeffrey@epa.gov>; Christensen, Kevin <Christensen.Kevin@epa.gov>; El-Zoghbi, Christine <El-Zoghbi.Christine@epa.gov>; Eyermann, Richard <Eyermann.Richard@epa.gov>; Butler, Kathlene <Butler.Kathlene@epa.gov>; Joseph, Laretta <Joseph.Laretta@epa.gov>; Brooks, Jaya <brooks.jaya@epa.gov>; Maxwell, Ryan <Maxwell.Ryan@epa.gov>; Sternberg, Gary <Sternberg.Gary@epa.gov>; Trent, Bobbie <Trent.Bobbie@epa.gov>; Klingler, Rebecca <klingler.rebecca@epa.gov>
Subject: Draft OIG report, "EPA Exceeded the Deregulatory Goals of Executive Order 13771," (Project No. OPE-FY18-0177) for Agency comment.

Attached is the draft OIG report, "EPA Exceeded the Deregulatory Goals of Executive Order 13771" (Project No. OPE-FY18-0177) for Agency comment.

The report examines EPA's management controls for implementing Executive Order (EO) 13771, *Reducing Regulation and Controlling Regulatory Costs*.

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As noted in the report's transmittal memorandum, the Agency's response is due within 30 days of the draft report date (June 17, 2019). The response should indicate planned completion dates for the report recommendations. If you do not concur with a proposed recommendation, please provide any alternative actions you wish to be considered for the final report. Your response should also identify any corrective actions already initiated or planned.

If you or your staff have any questions, please contact me at (202) 566-0831, or Laretta Joseph, Project Manager, at (212) 637-3049.

Thank you for the cooperation and assistance we received from the Office of Policy and staff in multiple program offices throughout this assignment.

Jeff Harris

Jeffrey K. Harris, PhD

Director, Toxics, Chemical Management and Pollution Prevention Evaluations

Office of Audit and Evaluation

Office of Inspector General

Message

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]
Sent: 5/9/2017 4:00:22 PM
To: Rees, Sarah [rees.sarah@epa.gov]; Nickerson, William [Nickerson.William@epa.gov]
Subject: FW: Making sure everyone has seen this memo from OIRA on Regulatory Reform Accountability under EO 13777
Attachments: OMB OIRA memo M-17-23.pdf

I saw this yesterday. Does it alter our draft plan?

From: McGartland, Al
Sent: Tuesday, May 9, 2017 11:50 AM
To: Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Cc: Rees, Sarah <rees.sarah@epa.gov>; Kime, Robin <Kime.Robin@epa.gov>; Kenny, Shannon <Kenny.Shannon@epa.gov>
Subject: Making sure everyone has seen this memo from OIRA on Regulatory Reform Accountability under EO 13777



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 28, 2017

M-17-23

MEMORANDUM FOR: REGULATORY REFORM OFFICERS AND REGULATORY
POLICY OFFICERS AT EXECUTIVE DEPARTMENTS AND
AGENCIES

CC: PERFORMANCE IMPROVEMENT OFFICERS AT EXECUTIVE
DEPARTMENTS AND AGENCIES

FROM: Dominic J. Mancini, Acting Administrator
Office of Information and Regulatory Affairs

SUBJECT: Guidance on Regulatory Reform Accountability under Executive
Order 13777, titled "Enforcing the Regulatory Reform Agenda"

Background

This memorandum provides guidance regarding sections 4 and 5 of Executive Order (EO) 13777, titled "Enforcing the Regulatory Reform Agenda." Section 4 requires the Office of Management and Budget (OMB) to issue guidance about the performance indicators that agencies listed in 31 U.S.C. § 901(b)(1) (see Application section below) must incorporate into their annual performance plans. The performance indicators measure progress toward the following goals:

- improving implementation of regulatory reform initiatives and policies pursuant to section 2 of EO 13777;¹ and
- identifying regulations for repeal, replacement, or modification.

¹ Section 2 of EO 13777 identifies the following regulatory reform initiatives and policies:

- EO 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs), regarding offsetting the number and cost of new regulations;
- EO 12866 of September 30, 1993 (Regulatory Planning and Review), as amended, regarding regulatory planning and review;
- Section 6 of EO 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), regarding retrospective review; and
- The termination, consistent with applicable law, of programs and activities that derive from or implement EOs, guidance documents, policy memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded.

Section 5 permits waivers from compliance with EO 13777 if there is a determination that the agency “generally issues very few or no regulations.”

Application

The agencies subject to EO 13777 are only those agencies subject to the regulatory review requirements of EO 12866.² While independent regulatory agencies are not subject to EO 13777, they are still encouraged to comply.

The *Waivers* section in this Guidance applies to all agencies subject to EO 13777.

In contrast, the *Requirements* section in this Guidance only applies to a subset of agencies subject to EO 13777, in particular:

- The Department of Agriculture
- The Department of Commerce
- The Department of Defense
- The Department of Education
- The Department of Energy
- The Department of Health and Human Services
- The Department of Homeland Security
- The Department of Housing and Urban Development
- The Department of the Interior
- The Department of Justice
- The Department of Labor
- The Department of State
- The Department of Transportation
- The Department of the Treasury
- The Department of Veterans Affairs
- The Environmental Protection Agency
- The National Aeronautics and Space Administration

Nevertheless, agencies subject to EO 13777 that are not included in the above list are strongly encouraged to comply with the *Requirements* section of this Guidance and must still comply with all sections of EO 13777 with the exception of section 4(a).

Requirements

Beginning with the FY 2019 Annual Performance Plan (APP)³ agencies must, at a minimum, include in their plans the following performance indicators⁴ for the fiscal year:

² Agencies subject to regulatory review under EO 12866 are those authorities of the United States that are an “agency” under 44 U.S.C. § 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. § 3502(5).

³ See 31 U.S.C. § 1115(b).

⁴ The terms “EO 13371 deregulatory action,” “EO 13771 regulatory action,” and “total incremental cost” have the same meaning as in the OMB guidance implementing EO 13771.

1. Number of evaluations to identify potential EO 13771 deregulatory actions that included opportunity for public input and/or peer review;
2. Number of EO 13771 deregulatory actions recommended by the Regulatory Reform Task Force to the agency head, consistent with applicable law;
3. Number of EO 13771 deregulatory actions issued that address recommendations by the Regulatory Reform Task Force;
4. Number of EO 13771 regulatory actions and, separately, EO 13771 deregulatory actions issued; and
5. Total incremental cost of all EO 13771 regulatory actions and EO 13771 deregulatory actions (including costs or cost savings carried over from previous fiscal years).

In their FY 2019 APP, agencies must establish performance goal(s) associated with each indicator. They must also set a target for the level of performance to be achieved within the time period. These actions should be consistent with the guidance in Part 6 of OMB Circular A-11. Agencies must also include in their FY 2019 APP the above performance indicators and set targets for the corresponding performance goals for FY 2018. Beginning with their FY 2018 Annual Performance Reports, agencies must report the appropriate performance data for each performance indicator and goal, and identify each action evaluated for indicator 1, each Regulatory Reform Task Force recommendation for indicator 2, and each EO 13771 regulatory and EO 13771 deregulatory action for indicators 3 and 4 respectively.

In addition, agencies should establish and report other meaningful performance indicators and goals for the purpose of evaluating and improving the net benefits of their respective regulatory programs (*i.e.*, all of the existing regulations in place that address a specific regulatory objective). This likely will require measuring the costs and benefits of regulatory programs and setting goals for improving those programs' net benefits. The effort to improve net benefits may be conducted as part of developing agency strategic and performance plans and priority goals, and may use existing quarterly and annual performance review processes to assess progress against these objectives. Please consult with your OIRA desk officer during your agency's development of new performance indicators for evaluating the net benefits of regulatory programs.

Agencies should also report on their performance in terminating, consistent with applicable law, any programs or activities that derive from or implement EOs, guidance documents, policy memoranda, rule interpretations, and similar documents, or relevant portions thereof, that have been rescinded or that were terminated during the fiscal year. This performance can be reported as either a performance indicator or other means (*e.g.*, a narrative discussion) in the agency's performance plan and report.

Waivers

Compliance with EO 13777 may be waived if there is a determination that the agency generally issues very few or no regulations.⁵ A waiver may be revoked at any time.

⁵ EO 13771 defines "regulation" as an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of

An agency requesting a waiver should provide OMB at least the following information:

- 1) An overview of its existing regulations, including information about the nature and goal of the regulations, and the magnitude of those regulations' benefits and costs;
- 2) The number of significant regulatory actions (see EO 12866) on its existing and, if available, planned *Unified Agenda of Regulatory and Deregulatory Actions*, and estimates of the total incremental benefits and costs of those actions;
- 3) An overview of the nature, quantity and impact of regulations the agency plans to issue that the agency believes are not significant (see EO 12866); and
- 4) Information about the benefits and costs of its existing and planned significant guidance documents.⁶

OMB may request that the agency provides additional information to help determine the appropriateness of a waiver.

an agency, but does not include: (a) regulations issued with respect to a military, national security, or foreign affairs function of the United States (For more information about the national security function exemption, see question 7 in the OMB guidance titled "Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs.'"); (b) regulations related to agency organization, management, or personnel; or (c) any other category of regulations exempted by the Director.

⁶ The OMB guidance referenced in the above footnote defines "EO 13771 regulatory action[s]" to include "a significant guidance document (e.g., significant interpretive guidance) reviewed by [OMB's Office of Information and Regulatory Affairs] under the procedures of EO 12866 that have been finalized and that impose total costs greater than zero."